UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SANDERS LAMONT ADAMS, a/k/a Lamont Adams,

Petitioner,

v. **9:04-CV-461 (FJS/RFT)**

M.P. MCGINNIS, Superintendent of Southport Correctional Facility,

Respondent.

APPEARANCES

SANDERS LAMONT ADAMS
93-A-7902
Elmira Correctional Facility
P.O. Box 500
Elmira, New York 14902-500
Petitioner *pro se*

SCULLIN, Chief Judge

ORDER

On April 26, 2004, Petitioner Sanders Lamont Adams filed a petition for a Writ of Habeas Corpus.[1] *See* Dkt. No. 1. By Order dated July 9, 2004, this Court dismissed this petition because Petitioner failed to comply with this Court's April 28, 2004 Order. *See* Dkt. Nos. 2-3.

On March 17, 2005, Petitioner filed a motion "for reconsideration of the interlocutory

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[1] As Magistrate Judge Homer noted in his September 4, 2003 Report-Recommendation and Order, Petitioner is an experienced litigator, "having filed twenty-four federal actions in New York district courts, five in this district alone." *See Adams v. Spitzer*, No. 9:02-CV-853, at Dkt. No. 36, at 2 (citation omitted). Since that time, the number of cases that Petitioner has filed has increased substantially and includes nineteen petitions for a Writ of Habeas Corpus.

order and judgment entered in this action on the 9th and 12th day of July 2004."[2] *See* Dkt. No. 6. Petitioner's motion is rambling and largely unintelligible and does not set forth any basis that would warrant this Court's reconsideration of its dismissal of his habeas petition or any other relief with respect to that dismissal. Rather, Petitioner merely states that he seeks consolidation of the many cases he has filed in this District and "multiple reliefs pursuant to Fed. R. Civ. P. 60(b)(1) to (6), 42(a)." *See id.* Petitioner, however, does not offer any support or explanation as to why he is entitled to the relief he seeks.

Nonetheless, in light of Petitioner's *pro se* status, the Court has reviewed his motion to determine if he has established any of the factors that would permit the Court to grant his motion as either a motion to reconsider or a motion to vacate and finds that he has not.

"A court may justifiably reconsider its previous ruling if: (1) there is an intervening change in the controlling law; (2) new evidence not previously available comes to light or (3) it becomes necessary to remedy a clear error of law or to prevent manifest injustice." *Delaney v. Selsky*, 899 F. Supp. 923, 925 (N.D.N.Y. 1995) (citing *Doe v. New York City Dep't of Soc. Servs.*, 709 F.2d 782, 789 (2d Cir.), *cert. denied*, 464 U.S. 864, 104 S. Ct. 195, 78 L. Ed. 2d 171 (1983)). Petitioner has not established that any of these three factors support his request for reconsideration. Therefore, because Petitioner has not set forth any meritorious basis for the Court to reconsider either its July 9, 2004 Order or its July 12, 2004 Judgment, the Court must deny his motion to the extent that it is construed as a motion for reconsideration.

As noted, the Court has also reviewed Petitioner's motion as one seeking to vacate this

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[2] The Court notes that Petitioner filed fifteen motions to vacate or for reconsideration in fourteen different cases in this District between December 9, 2004, and March 23, 2005.

Court's July 12, 2004 Judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Rule 60(b) sets forth the following six grounds upon which a court can grant relief from a judgment:

> (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment.

Fed. R. Civ. P. 60(b).

"In deciding a Rule 60(b) motion, a court must balance the policy in favor of hearing a litigant's claims on the merits against the policy in favor of finality." *Kotlicky v. United States Fidelity & Guar. Co.*, 817 F.2d 6, 9 (2d Cir. 1987) (citation omitted). Moreover, Rule 60(b) motions are left to the sound discretion of the district judge. *See Nat'l Petrochemical Co. of Iran v. The M/T Stolt Sheaf*, 930 F.2d 240, 244 (2d Cir. 1991) (holding that "[a] motion to vacate a judgment under Fed. R. Civ. P. 60(b) is addressed to the sound discretion of the trial court . . . ." (citations omitted)).

The Court finds that Petitioner has not established that any of these factors support his motion. Moreover, Petitioner has not included anything in his present submissions to suggest that this Court's dismissal of this action was in any way erroneous. Therefore, because Petitioner has not set forth any basis for the vacation of the Court's July 12, 2004 Judgment, the Court denies his motion.

Accordingly, for the above-stated reasons, the Court hereby

ORDERS that Petitioner's motion for reconsideration or to vacate is **DENIED**; and the Court further

ORDERS that the Clerk of the Court serve a copy of this Order on Petitioner by regular mail.

IT IS SO ORDERED.

Dated: April 13, 2005
Syracuse, New York

Frederick J. Scullin, Jr.
Chief United States District Court Judge